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June 7, 1995

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VIA HAND DELIVERY

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Mail Stop 1170  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: IB Docket No. 95-41

Dear Mr. Caton:

Transmitted herewith, on behalf of ICG Wireless Services, Inc. ("ICG"), are an original and four copies of its Comments in the above-referenced proceeding.

Questions and copies of all correspondence should be directed to undersigned counsel.

Very truly yours,



Harsha Krishnan

Enclosure

cc: ICG Wireless Services, Inc.

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*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
*Washington, D.C. 20554*

**'JUN' - 8 1995**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

*In the Matter of*

Amendment to the Commission's  
Regulatory Policies Governing Domestic  
Fixed Satellites and Separate International  
Satellite Systems

IB Docket 95-41

DOCKET FILE COPY ORIGINAL

**COMMENTS OF ICG WIRELESS SERVICES, INC.**

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June 7, 1995

Its Attorneys

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**FEDERAL COMMUNICATIONS COMMISSION**  
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**COMMENTS OF ICG WIRELESS SERVICES, INC.,**

ICG Wireless Services, Inc. ("ICG"), by its attorneys, hereby submits its Comments to the Notice of Proposed Rulemaking ("NPRM") adopted on April 5, 1995, and released on April 25, 1995. In support of its Comments, ICG respectfully states:

**I. Introduction**

ICG offers international and domestic satellite earth station services through facilities located in the Atlanta, Denver, Los Angeles and New York metropolitan areas. ICG's satellite services include domestic and international voice, video and data transmissions. ICG currently provides services on a private carrier basis, but intends in the future to offer some of these services on a common carrier basis. During the past several years, ICG has filed and has had granted numerous applications for satellite earth stations.

The *NPRM* proposes to simplify the Commission's policies governing domestic and international fixed satellites and earth stations. ICG supports the *NPRM*'s proposals, especially those concerning earth station licensing.

**II. Unified Treatment of Fixed Satellites**

The *NPRM* proposes to eliminate the *Transborder Policy* and to treat U.S. domestic and separate satellite licensees on the same basis. ICG believes the current *Transborder Policy* unnecessarily limits the international services that U.S. domestic satellites may offer. As described in the *NPRM*, the *Transborder Policy* is intended to prevent significant

economic harm to the Intelsat global system. The State Department's *Buckley Letter* set forth the criteria for transborder services: transborder services are allowed only if (1) Intelsat could not provide the proposed service, or (2) use of Intelsat was clearly uneconomical or impractical. The Jamaica Teleport decision, however, narrowly interprets the "clearly uneconomical" standard, and therefore severely limits the provision of transborder services. Intelsat's own analysis of the economic impact of separate satellite systems is quantitative, as it focuses on the number of circuit provided by separate satellites. Consequently, the "qualitative" approach of the *Transborder Policy* based on the *Buckley Letter* and interpreted by Jamaica Teleport is inappropriate and too restrictive. Furthermore, the Intelsat Article XIV(d) consultation process, which the Commission already conducts, provides a better means to mitigate any adverse economic impacts to the Intelsat system.

Similarly, the *Separate Systems Policy*'s limitations on the provision of domestic satellite services by U.S. international separate satellites are not necessary. Those limitations derive from limited orbital positions for separate systems satellites, and not from U.S. Intelsat treaty obligations. Accordingly, ICG believes that increases in available international satellite capacity makes the limitations on domestic services superfluous.

Unified regulation of fixed satellites is appropriate and will further the public interest for several reasons. First, elimination of the artificial limitations imposed by the *Transborder Policy* and the *Separate Systems Policy* on satellite services will increase available transponder capacity. It is well established that there presently is a scarcity of transponder capacity; furthermore, ICG and its customers have had difficulty in obtaining suitable transponder capacity. Second, the entry of domestic satellite providers into international services and the corresponding entry into domestic services by international satellite providers will enhance competition in the satellite services markets. Third, unified regulation gives greater flexibility to earth station operators and their customers. ICG therefore supports elimination of the *Transborder Policy* and unified regulation of U.S. fixed satellites as proposed by the *NPRM*.

### **III. Reservation of Common Carrier Capacity**

The *NPRM* proposes to eliminate the requirement that satellite space station licensees reserve transponder capacity on a common carrier basis. While ICG does not oppose this proposal, ICG requests that, if the Commission adopts this proposal, the Commission continue to monitor the availability and pricing of transponder capacity, to ensure that sufficient transponder capacity is available at just and reasonable rates.

### **IV. Simplification of Earth Station Licensing**

ICG strongly supports the *NPRM*'s proposal to simplify earth station licensing. Currently, earth station operators must obtain a separate authorization for communications with each international satellite. This requirement significantly reduces the flexibility of earth station operators because the authorization process currently requires sixty to ninety days. Thus, the proposal would benefit earth station operators.<sup>1</sup>

ICG suggests two extensions of this *NPRM* proposal. First, ICG requests the Commission to clarify that the ALSAT designation includes the Canadian ANIK and Mexican Solidaridad satellites, which are near the domestic arc. Second, an earth station authorization should also encompass Section 214 authorization for communication with U.S. fixed satellites and the locations that the U.S. fixed satellites are authorized to serve. Section 214 separate and apart from Title III radio license applications are unnecessary for earth station operators. A detailed public convenience and necessity determination is more appropriate in the space station licensing context. Also, Intelsat Article XIV(d) consultation is conducted for the space station licensing. Service from earth stations is limited by the space station's authorization, so separate Section 214 applications by earth station licensees are unnecessary and duplicative. Moreover, the Commission has adopted this procedure in the microwave licensing context.

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<sup>1</sup>ICG has been informally advised that the integration of domestic and international satellite authorization may further increase application processing times. ICG requests the Commission to reduce application processing times.

This procedure would simplify the application process and reduce the Commission's processing burdens.


#### **V. Conclusion**

ICG generally supports the *NPRM* proposals. These proposals would eliminate unnecessary and artificial restrictions on satellite services, and thereby enhance competition, increase the available transponder capacity and provide greater flexibility to satellite services customers. The proposals to simplify earth station licensing are essential for this unified treatment of U.S. fixed satellites. ICG requests that the Commission further simplify the licensing process by integrating the Section 214 authorization with earth station licensing.

Respectfully submitted,

**ICG WIRELESS SERVICES, INC.**

June 7, 1995

By:   
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